



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**MISCELLANEOUS CRIMINAL APPLICATION NUMBER 196 OF 2018**

**BRIAN KIRWA BOWEN.....APPLICANT**

**VERSUS**

**REPUBLIC .....RESPONDENT**

**SENTENCE ON RE-SENTENCING**

1. On 30<sup>th</sup> June 2021 I delivered a Ruling with respect to Brian's application for re-sentencing.
2. To enable me arrive at an appropriate sentence I had requested for a pre-sentence report. The report that was filed did not contain the Victim Impact Statement. It also made reference to minutes of a family meeting, but the same were not annexed.
3. I have now received the Victim Impact Statement and the minutes of the family meeting.
4. I have carefully considered the report containing the victim impact statement filed on 16<sup>th</sup> July 2021.
5. To contextualize this ruling, the applicant was found guilty of the murder of his brother Joseph Kipkosgei Bowen and sentenced to death on 2<sup>nd</sup> February 2017. The offence was committed on 1<sup>st</sup> April 2012 and he has been in custody since.
6. Having considered the families' views that they are ready to accept the applicant back home, and to reintegrate him into the community and having considered that the applicant has been in custody from 3<sup>rd</sup> April 2012, I am persuaded that a non-custodial sentence is appropriate in the circumstances. This is strengthened by the commitment on the part of Probation and After Care Services to support the family in dealing with the issues arising out of the offence.
7. Taking into consideration the period the applicant has spent in custody, the reconciliation within the family and community, the applicant is placed on Probation Supervision under the Probation of Offenders Act, for three (3) years.
8. The applicant to abide by the Probation Order.
9. Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 17TH NOVEMBER 2021**

**MUMBUA T MATHEKA**

**JUDGE**

**IN THE PRESENCE OF:-**

**EDNA COURT ASSISTANT**

**APPLICANT: PRESENT**

**FOR STATE: MS. MURUNGA**

**MR. NDUNG'U PROBATION OFFICER PRESENT**